

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

HY-KO PRODUCTS COMPANY LLC,

Plaintiff,

v.

THE HILLMAN GROUP, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 2:21-CV-00197-JRG

VERDICT FORM

In answering the following questions and completing this Verdict Form, you are to follow all the instructions that I have given you in the Court's Final Jury Instructions. Your answers to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Final Jury Instructions. You should refer to and consider the Final Jury Instructions as you answer the questions in this Verdict Form.

As used herein, the following terms have the following meanings:

- “**Plaintiff**” or “**Hy-Ko**” refers to Hy-Ko Products Company LLC.
- “**Defendant**” or “**Hillman**” refers to The Hillman Group, Inc.
- The “**’920 Patent**” refers to U.S. Patent No. 9,687,920.
- The “**’133 Patent**” refers to U.S. Patent No. 10,421,133.
- The “**Patents-in-Suit**” refers collectively to the ’920 Patent and the ’133 Patent.
- The “**Asserted Claims**” refers collectively to Claims 1, 6, and 7 of the ’920 Patent and Claims 1 and 11 of the ’133 Patent. **The Asserted Claims are asserted by Hy-Ko against Hillman.**

**IT IS VERY IMPORTANT THAT YOU FOLLOW THE
INSTRUCTIONS PROVIDED IN THIS VERDICT FORM**

**READ THEM CAREFULLY AND ENSURE THAT YOUR
VERDICT COMPLIES WITH THEM**

QUESTION NO. 1

Did Hy-Ko, the Plaintiff, prove by a preponderance of the evidence that Hillman, the Defendant, infringed **ANY** of the Asserted Claims of either the '920 Patent or the '133 Patent?

For each patent below, please answer "Yes" or "No".

'920 Patent YES: ✓ NO: _____

'133 Patent YES: ✓ NO: _____

QUESTION NO. 2a

Did Hillman, the Defendant, prove by clear and convincing evidence that any of the following Asserted Claims are invalid?

For each claim below, please answer "Yes" or "No".

Claim 1 of the '920 Patent: Yes: _____ No: ✓

Claim 6 of the '920 Patent: Yes: _____ No: ✓

Claim 7 of the '920 Patent: Yes: _____ No: ✓

Claim 1 of the '133 Patent: Yes: _____ No: ✓

Claim 11 of the '133 Patent: Yes: _____ No: ✓

QUESTION NO. 2b

Did Hillman, the Defendant, prove by clear and convincing evidence that the Asserted Claims involve only technologies and activities that were well-understood, routine, and conventional from the perspective of a person of ordinary skill in the art as of the priority date of the Patents-in-Suit?

For each claim below, please answer "Yes" or "No".

Claim 1 of the '920 Patent: Yes: _____ No: ✓

Claim 6 of the '920 Patent: Yes: _____ No: ✓

Claim 7 of the '920 Patent: Yes: _____ No: ✓

Claim 1 of the '133 Patent: Yes: _____ No: ✓

Claim 11 of the '133 Patent: Yes: _____ No: ✓

If you answered “NO” to both patents in Question No. 1, OR “YES” to ALL Asserted Claims in Question No. 2a, OR “YES” to ALL Asserted Claims in Question No. 2b, then DO NOT answer Question No. 3.

Answer Question No. 3 ONLY as to any Asserted Claim that you have found BOTH to be infringed AND not invalid.

QUESTION NO. 3

Did Hy-Ko, the Plaintiff, prove by a preponderance of the evidence that Hillman, the Defendant, willfully infringed ANY of the Asserted Claims that you found were infringed?

Yes: _____ No: ✓

If you answered “NO” to both patents in Question No. 1, OR “YES” to ALL Asserted Claims in Question No. 2a, OR “YES” to ALL Asserted Claims in Question No. 2b, then DO NOT answer Question Nos. 4a, 4b, and 4c.

Answer Question No. 4a ONLY as to any Asserted Claim that you have found BOTH to be infringed AND not invalid.

QUESTION NO. 4a

What sum of money, if paid now in cash, has Hy-Ko, the Plaintiff, proven by a preponderance of the evidence would compensate it for its damages for infringement through January 31, 2022?

Answer in United States Dollars and Cents, if any:

\$ \$ 16,000,000

Answer Question No. 4b ONLY if you awarded monetary damages in Question No. 4a.

QUESTION NO. 4b

What portion of the amount you found in Question No. 4a, if any, constitutes a **reasonable royalty** for the use made of the inventions by Hillman (as opposed to Hy-Ko's **lost profits**)?

Answer in United States Dollars and Cents, if any:

\$ \$ 16,000,000 (full amount)

Answer Question No. 4c ONLY if you answered Question No. 4b.

QUESTION NO. 4c

Is the total amount of the reasonable royalty you found in Question No. 4b a one-time lump sum for past and future sales, or a running royalty for past sales? Check **ONLY** one of the following:

One-time lump sum: ✓

Running Royalty: _____

QUESTION NO. 5

Did Hillman, the Defendant, prove by a preponderance of the evidence that Hy-Ko's conversion claim is barred by the statute of limitations?

Yes: _____

No:  _____

If you answered “NO” to Question No. 5, then you should answer Question No. 6.

If you answered “YES” to Question No. 5, then you should not answer Question No. 6.

QUESTION NO. 6

Do you find that Hy-Ko, the Plaintiff, has proven by a preponderance of the evidence, its conversion claim with respect to its engineering drawings?

Yes: _____ No:  _____

If you answered “YES” to Question No. 6, then you should answer Question No. 7.

If you answered “YES” to Question No. 5 or if you answered “NO” to Question No. 6, then you should not answer Question No. 7.

QUESTION NO. 7

What sum of money do you award Hy-Ko, the Plaintiff, in nominal damages for conversion?

\$ _____

FINAL PAGE OF THE JURY VERDICT FORM

You have now reached the end of the Verdict Form and should review it to ensure that it accurately reflects your unanimous determinations. The Jury Foreperson should then sign and date the Verdict Form in the spaces below. Once this is done, notify the Court Security Officer that you have reached a verdict. The Jury Foreperson should keep the Verdict Form and bring it when the jury is brought back into the courtroom.

Signed this 7th day of October 2022.

Jury Foreperson